SUPREME COURT OF THE UNITED STATES

No. 300.

THE UNITED STATES, APPELLANTS,

vs.

PETER ERNEST BRULATOUR, HYPOLITE NORES, AND FRANCIS LABORDE.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Petition filed with document A, October* 19, 1864.

Circuit court of the United States, sixth circuit and eastern district of Louisiana.

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

Rufus Waples, United States district attorney for the eastern district of Louisiana, in behalf of the United States of America, plaintiffs and petitioners, complains of Peter Ernest Brulatour and Hypolite Nores, partners in trade, doing business under the firm, name, and style of Brulatour & Co., and Francis Laborde, of the city of New Orleans, citizens of the State of Louisiana, defendants.

For that whereas, the said defendants, Brulatour & Co., and
2 Francis Laborde, heretofore, to wit, on the 2d day of May, 1864, at New Orleans, State of Louisiana, and within the jurisdiction of this court by their certain writing obligatory, sealed with their seals, and now shown to the court here, and attached to this petition and made part hereof, acknowledge themselves to be held and firmly bound unto the United States in the sum of sixteen thousand dollars, to be paid to the said plaintiffs and petitioners; which said writing obligatory was and is subject to certain conditions thereunder written to the effect following, to wit: That if the above bound obligors shall well and truly pay the collector of the port of New Orleans whatever excess of duties or charges may be assessed on the aforesaid goods, wares, and merchandise, and over and above the amount estimated or assessed and paid prior to the delivery of the same; and also that if the said obligors shall redeliver the said goods to the order of the collector, provided he shall require the same, at
3 any time within ten days after the examination thereof shall have been made and reported to the collector; and also if in the meantime the said packages, and all and every one of them so delivered to the said obligors, shall not be opened without the consent of the collector or surveyor, given in writing, and then in presence of one of the inspectors of customs, then this obligation to be void, otherwise to remain in full force and virtue.

That the said excess of duties or charges, to wit, fifteen hundred and sixty-six dollars and ninety-eight cents, ($1,566 98,) was assessed on the aforesaid goods, wares, and merchandise, before the 1st day of August, 1864.

And the said petitioners aver, that after an examination of the said goods, wares, and merchandise had been made and reported to the collector, and within ten days after the said examination, to wit, on or about the 3d day of August, 1864, a demand in writing was made on said Brulatour & Co. for redelivery of said goods to the order
4 of the collector, and also for the payment of the additional duties, to wit, $1,566 98, to said collector, as required by said bond.

And the said petitioners, for assigning a breach of the said conditions of said bond, aver that the said defendants failed and refused to redeliver said goods to the order of the said collector and still refuse so to do.

And the said petitioners, for assigning a further breach of the said conditions of said writing obligatory, further aver that the said defendants, although requested, to wit, on the 3d day of August, 1864, did not well and truly pay to the collector of the port of New Orleans the said additional and excess of duties and deficiency of $1,566 98, and still refuse so to do.

And the said petitioners, for assigning a further breach of the said conditions of said writing obligatory, further aver, that the said defendants opened, without the consent of the collector or surveyor given in writing, and not in the presence of one of the inspectors of customs the said packages.

5 That by reason of the several breaches the said writing obligatory became forfeited, and according to the statute in such cases made and provided, an action hath accrued to said petitioners to demand and have of and from the said defendants the sum of $16,000; yet the said defendants, although often requested so to do, have not as yet paid the said sum of money to the said petitioners, according to the said writing obligatory and its conditions, but to pay the same have hitherto wholly refused, and still do refuse, to the damage of said plaintiffs $16,000, said petitioners pray that said defendants be cited to answer this petition, and that after due proceedings had that there be judgment in solido in favor of your petitioners against the said defendants in the sum of $16,000. And petitioners further pray for costs and general relief.

(Signed) RUFUS WAPLES,
U. S. Att'y.

6 *Document A, filed with foregoing petition.*—No. 153.

Know all men by these presents, that we, Brulatour & Co. F. Laborde, are held and firmly bound unto the United States of America in the sum of sixteen thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents.

Witness our hands and seals, this 2d day of May, one thousand eight hundred and sixty-four.

Whereas the above obligors have this day made entry of certain goods, wares, and merchandise, imported in the or vessel called the Katica, master, from Marseilles.

And whereas the collector of the port of New Orleans, at the request of the said obligors, has granted a permit for the delivery

7 of the said goods, wares, and merchandise to the said obligors prior to the examinations required by law, viz:

Casks on wh'f blce. one of each.

102 casks claret.
100 boxes Vermouth.
2 jars sausages.
4 bales walnuts.
250 boxes Vermouth.
150 boxes mushrooms.
20 bbls. vinegar.
150 boxes pickles.
100 boxes olives.
25 boxes capers.
100 boxes pickles.
25 boxes sardines in salt.
25 boxes sardines in oil.
50 boxes olives.
50 boxes pickles.
77 boxes orange fl. water.
300 baskets olive oil.
200 baskets olive oil.
39 boxes olive oil.
200 baskets olive oil.
100 baskets olive oil.
40 boxes olive oil.
85¼ casks claret.
50 casks claret.
65 casks Madeira.
50 casks Madeira.

Now the condition of this obligation is such, that, if the above bounden obligors shall well and truly pay to the collector of the port of New Orleans, whatever excess of duties or charges may be assessed on the aforesaid goods, wares, and merchanise over and above the amount estimated or assessed, and prior to the delivery of the same.

And also, that if the said obligors shall redeliver the said goods to the order of the collector, provided that he shall require the
8 same at any time within ten days after the examination thereof shall have been made and reported to the collector; and also, if in the meantime the said package, all and every one of them, so delivered to the said obligors, shall not be opened without the consent of the collector or surveyor, given in writing, and then in the presence of one of the inspectors of the customs, then this obligation to be void, otherwise to remain in full force and virtue.

(Signed) BRULATOUR & Co. [L. S.]
(Signed) F. LABORDE. [L. S.]

Sealed and delivered in presence of—
(Signed) JULES TRAIN.

U. S intern rev. of 25 cents cancelled May 2d, 1854.

9 *Citation to Peter Ernest Brulatour and marshal's return thereon.*

The President of the United States of America to the marshal of the eastern district of Louisiana, greeting:

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

You are hereby commanded to summon the firm of Brulatour & Co., composed of Peter Ernest Brulatour and Hypolite Nores, members thereof, citizens of the State of Louisiana, to comply with the demand of the United States of America contained in the petition and bond annexed, of which copies accompany this citation, or to deliver their answer to the same, in the office of the clerk of the cir-

cuit court of the United States, sixth judicial circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against them by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the first Monday of November, 1864.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 19th day of October, A. D. one thousand eight hundred and sixty-four, and of the independence of the United States of America the 89th year.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

10 *Marshal's return.*

Received October 21st, 1864, and the same day, month, and year served a copy of the within citation, plaintiff's petition, and copy of bond on Peter Ernest Brulatour, by leaving it in the hands of Hypolite Nores, his lawful agent, and partner of the firm of Brulatour & Co., at the office of said firm, No. 30 Conti street, New Orleans.

(Signed) M. EGAN,
D'y U. S. Marshal.

11 *Citation to Hypolite Nores.*

The President of the United States of America to the marshal of the eastern district of Louisiana, greeting:

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE Nores and Francis Laborde. } No. 3,480.

You are hereby commanded to summon the firm of Brulatour & Co., composed of Peter Ernest Brulatour and Hypolite Nores, members thereof, citizens of the State of Louisiana, to comply with the demand of the United States of America contained in the petition and bond annexed, of which copies accompany this citation, or to deliver their answer to the same, in the office of the clerk of the circuit court of the United States, sixth judicial circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against them by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the first Monday of November, 1864.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 19th day of October, A. D. one thousand eight hundred and sixty-four, and of the independence of the United States of America the 89th year.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

12 *Marshal's return.*

Received October 21st, 1864, and the same day, month, and year served a copy of the within citation, plaintiff's petition, and copy of bond on Hypolite Nores, personally, he being one of the firm of Brulatour & Co., at the office of said firm, No. 30 Conti street, New Orleans.

(Signed) M. EGAN,
D'y U. S. Marshal.

13 *Citation to Francis Laborde.*

The President of the United States of America to the marshal of the eastern district of Louisiana, greeting:

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

You are hereby commanded to summon Francis Laborde, a citizen of the State of Louisiana, to comply with the demand of the United States of America contained in the petition and bond annexed, of which copies accompany this citation, or to deliver his answer to the same, in the office of the clerk of the circuit court of the United States, sixth judicial circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the first Monday of November, 1864.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 19th day of October, A. D. one thousand eight hundred and sixty-four, and of the independence of the United States of America the 89th year.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

14 *Marshal's return.*

Received Oct. 21st, 1864, and the same day, month, and year served a copy of the within citation, plaintiff's petition, and copy of bond on Francis Laborde, personally, at his office, No. 17 St. Louis street, New Orleans.

(Signed) M. EGAN,
D'y U. S. Marshal.

15 *Answer.—Filed Nov.* 29, 1864.

United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

THE UNITED STATES
vs.
P. E. BRULATOUR, HYPOLITE NORES AND Francis Laborde. } No. 3,480.

And now into court, by the undersigned, their counsel, come P. E.

Brulatour and Hypolite Nores, composing the firm of Brulatour & Co., and Francis Laborde, of this city, defendants in the above-entitled cause, and in answer to plaintiff's petition deny all and singular its allegations, except as may be hereinafter specially admitted.

Respondents admit their signature to the bond sued on.

They specially deny that they have in any manner committed a breach of any of its stipulations.

16 Respondents allege that on the 2d May, 1864, they, the said Brulatour & Co. paid to the collector of customs for the port of New Orleans, as duties on the goods, the securing of which duties said bond was executed, the sum of five thousand and five 29-100 dollars, and which amount exceeded the duties and charges really due by law on said goods by the sum of six hundred and twenty dollars, as determined and acknowledged by said collector on final examination and liquidation of said duties and charges, and which said liquidation and examination was made on or about the 8th May, 1864.

And respondents specially deny that any notice or demand to redeliver said goods was made by the said collector within ten days after said final examination and report thereof to said collector, which constituted one of the conditions of the said bond now sued on.

17 And now respondents allege, that the duties alleged to be due in said petition of plaintiff, to wit: one thousand five hundred sixty-six 98-100 dollars, ($1,566 98,) were assumed to be levied and assessed by said collector, under the resolution of Congress entitled, "Joint resolution to increase temporarily the duties on imports," approved the 29th April, 1864; and that said goods were never subject to the provision of said resolution for this, that said goods were imported into the port of New Orleans previous to the promulgation of said act, and previous to the passage and approval of said act; said goods having been imported on about the 26th April, 1864.

Wherefore respondents pray to be hence dismissed with costs.

(Signed) WHITAKER, FELLOWS & MILLS,
Att'ys.

18 *Note of evidence.—Filed Dec.* 6, 1864.

THE UNITED STATES
vs.
PETER E. BRULATOUR AND HYPOLITE NORES and Frnacis Laborde. } No. 3,480.

Plaintiffs offered in evidence document A, being bond; also documents B, D, E, F.

Mr. Brown, Mr. Collins, and Mr. Crawford, witnesses sworn for plaintiffs.

Defendants offered in evidence documents C and G.

Mr. Roux and Mr. Summers witnesses sworn for defendants.

Document B offered in evidence by plaintiffs, and filed Dec. 6th, 1864.

19½ *Oath or affirmation of consignee, importer, or agent.*

I, H. Nores, do solemnly, sincerely, and truly swear (or affirm) that the invoice and bill of lading now presented by me to the collector of the district of New Orleans, are the true and only invoice and bills of lading by me received, of all the goods, wares, and merchandise imported in the ship Katika, whereof is master, from Marseilles, for account of any person whomsoever, for whom I am authorized to enter the same, *except (what is now being entered for warehousing, and upon which the duty chargeable has been secured according to law;)* that the said invoice bills of lading are in the state in which they were actually received by me, and that I do not know nor believe in the existence of any other invoice or bills of lading of the said goods, wares, and merchandise; that the entry now delivered to the collector, contains a just and true account of the said goods, wares, and merchandise, according to the said invoice and bill of lading; that nothing has been, on my part, nor to my knowledge on the part of any other person, concealed or suppressed, whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if at any time hereafter I discover any error in the said invoice, or in the account rendered of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district. And I do further solemnly, sincerely, and truly swear, (or affirm,) that to the best of my knowledge and belief, P. E. Cailloe, of Marseilles, is or are the owners of the goods, wares, and merchandise, mentioned in the annexed entry; that the invoice now produced by me exhibits the actual cost (if purchased) or fair market value (if otherwise obtained, or if said value be more) at the time or times, and place or places, when and where procured, (as the case may be,) of the said goods, wares, and merchandise, all the charges thereon, and no other or different discount, bounty, or drawback, but such as has been actually allowed on the the same. So help me God.

H. NORES.

Sworn to this day of April, 1864, before me.

JOHN F. COLLINS,
D'y Collector.

Oath or affirmation of owner whose goods have been purchased.

I, do solemnly, sincerely, and truly swear (or affirm) that the entry now delivered by me to the collector of the district of New Orleans, contains a just and true account of all the goods, wares, and merchandise imported by or consigned to me, in the whereof is master, from except what is now being entered for warehousing and upon which the duty chargeable has been secured according to law; that the invoice which I now

19 *Entry of merchandise imported into the port and district of New Orleans, by Brulatour & Co., in the Amer. Ship Katika, Master, from Marseilles.*

NOTE.—In order to avoid penalty, the importer will place in this column, opposite each package, its value at the principal markets of country of production or manufacture whenever it is more than the actual cost. See section 8 of tariff act, passed 30th July, 1846.

☞ Importers of dry goods will be required to specify in the column of contents the material of which their goods are made, whether wool, cotton, worsted, silk, etc.; or when any two or more, to specify that which is of chief value.

COLUMNS TO BE FILLED BY THE IMPORTER.							APPRAISED VALUE, SUBJECT TO DUTY AT THE RATE OF—													
Marks.	Nos.	Packages.—Packages and contents.	Quantities in lbs., yards, bushels, galls., &c.	In foreign currency. Invoice cost.	In foreign currency. Invoice charges.	Value at principal markets of country of production.—See note at top.	50 c.	35.	Value.	2 c. p. pound.	Value.	6 c. p. gall.	30 p. c.	Value.	50 c. p. gal.	Dutiable value in dollars.	Rate of duty.	Quantity.	Amount of duty.
P. E. C		One hundred and two casks claret	galls. 5,696	6,976 00												$300	30 p. c.		$90 00
		Off 3 p. c.		209 28			6,766 72									521	35 p. c.		182 35
					6,776 72														
		One hundred boxes Vermouth		1,500 00												6,501	50 p. c.		3,250 50
		Off 2 p. c.		30 00			14 70									45	2 c.	1,035	20 70
					14 70														
	‡	Two jars sausages	lbs. 215	391 45				391 45								150	6 c.	614	36 84
	11,21,38,39	Four bales walnuts	lbs. 1,035	236 35					236 35	1,035 lb						300	50 c.	28,130	1,415 00
					627 80														
Jourdan Brown		Two hundred and fifty boxes Vermouth		3,000 00															$4,995 39
		One hundred boxes Muscat wine		750 00															
		Fifty boxes Muscat wine		600 00			4,219 50					581 gls.							
		Twenty barrels vinegar	galls. 581	809 85							785 55	613½							
		One hundred and fifty boxes pickles		900 00															
		One hundred boxes olives, 30 p. c.		550 00															
		Twenty-five boxes capers, 35 p. c.		156 25															
		One hundred boxes assorted pickles		1,100 00															
		Twenty-five boxes sardines in Saumur, 30 p. c.		175 00															
		Twenty-five boxes sardines in oil		300 00															
		Fifty boxes olives		600 00															
		Fifty boxes pickles		262 50															
				9,203 60															
		Off 3 p. c.		276 10															
					8,927 50														
P. E. C	‡	Seventy-seven boxes orange flower water			742 60		742 60												
P. E. B		Three hundred baskets olive water		4,800 00															
C. C		Two hundred baskets olive water		3,350 00															
E. P. C		Thirty-nine boxes olive water	galls. 1,758	694 00				2,346 20						1,576 25					
P. E. B		Two hundred baskets olive water		3,700 00															
C. C		One hundred baskets olive water		1,925 00															
E. P. C		Forty boxes olive water		740 00															
				15,138 00															
		Off 2 p. c.		302 78															
				14,836 22															
		Ch'rge		72 50															
					14,908 72														
A. D. & C		Eighty-five qr. casks Bug. Port		7,387 00															
P. E. C		Fifty casks Bug. Port		4,250 00															
A. D. & C		Fifty-five casks Junet'r Madeira		5,166 00															
P. F. & C		Fifty casks Junet'r Madeira		3,790 00															
				20,523 00															
		2 p. c. off		410 46															
				20,112 54															
		Ch'ge and consul certif.		55 40															
					20,167 94		20,167 94												
		Com. 2 p. c.			1,072 22		33,366 76	2,737 65	236 35	1,035 c.	785 55	613½ g.	1,576 25	14,908 72					
						55 d. chg.	30 00	6 00	2 00		3 00		4 40	10 00					
				fcs.	54,683 50		3,396 76	2,743 65	238 35		788 55		1,580 65	14,918 72					
					$10,181 00		667 03		4 75		15 78		31 62	298 38					
							34,064 69	54 88	243 10		800 33		1,612 27	15,217 10					
								2,798 53											
							$6,336 00	$54 00	$45 00				$300 00	$2,830 00					

D. C. — Paid May 2. E. H. — D. C.

Claret wine, Vermouth, &c	$6,336	a 50 p. c.		$3,168 00
Pickles and sausages	521	a 35 p. c.		182 35
Sardines and olives	300	a 30 p. c.		90 00
Walnuts, lbs	45	2 c.	1,035	20 70
Vinegar, galls	150	6 c.	581	34 86
Sweet oil, galls	2,830	50 c.	1,758	879 00
				4,374 91
	50 p.	c. additions	1 duty	2,187 46
				6,562 37

Ascert'd duty 6,562 37
Duty paid 4,995 39
1,566 98

[U. S. inter. rev. stamp of $1 00 cancelled]

Liquidated May 13, 1864. Th. R.

BRULATOUR & CO.

produce contains a just and faithful account of the actual cost of the said goods, wares, and merchandise, bleaching, dyeing, dressing, finishing, putting up, and packing, and no other discount, drawback, or bounty, but such as has been actually allowed on the same, and also the actual market value at the principal markets of country of production or manufacture, whenever it is more than the actual cost; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me, and that they are the state in which I actually received them. And I do solemnly, sincerely, and truly swear (or affirm) that I have not in the entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise, and that if at any time hereafter I discover any error in the said invoice or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice thereof, I will immediately make the same known to the collector of this district or port.

Sworn to this day of 18 , before me.

——— ———, *Collector*.

Manufacturer's or owner's oath or affirmation when goods have not been actually purchased.

I, , do solemnly, sincerely, and truly swear (or affirm) that the entry now delivered by me to the collector of the district of New Orleans, contains a just and true account of all the goods, wares, and merchandise imported by or consigned to me, in the whereof is master, from (except what is now being entered for warehousing and upon which the duty chargeable has been secured according to law;) that the said goods, wares, and merchandise, were not actually bought by me, or by my agent, in the ordinary mode of bargain and sale, but that, nevertheless, the invoice which I now produce, contains a just and faithful valuation of the same, at their fair market value, including charges of purchasing, carriages, bleaching, dyeing, dressing, finishing, putting up, and packing, at the time or times, and place or places, when and where procured for my account, (or for account of myself and partners;) that the said invoice contains also a just and faithful account of all charges actually paid, and no other discount, drawback, or bounty, but such as has been actually allowed on the said goods, wares, and merchandise, and also the actual value at the principal markets of country of production or manufacture, whenever it is more than the actual cost; that I do not know nor believe in the existence of any invoice or bills of lading other than those now produced by me, and that they are in the state in which I actually received them. And I do further solemnly, sincerely, and truly swear (or affirm) that I have not in the entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty law-

fully due on the said goods, wares, and merchandise, and that if at any time hereafter I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice thereof, I will immediately make the same known to the collector of this district or port. So help me God.

Sworn to this day of , 18 , before me.
———— ————, *Collector.*

No 408.—*Impost entry.*

May 2d, 1864. Katica, master, from Marseilles. Brulatour & Co. Original duty, $4,995 39. Ascertained duty, $6,562 37. Excess, $. Refunded, $1,566 98. Deficiency, $1,566 98. Liquidated May 13, '64. Paid May 2d, 1864. Permit issued.

20 *Document D.—Offered in evidence by plaintiffs, and filed Dec.* 6, 1864.

Bond No. 12, O. L., (R. G.;) form 111; penal bond No. 69.

DISTRICT OF NEW ORLEANS,
Custom-house, May 6th, 1864.

To the storekeeper of the port:

The duties thereon having been paid, you will deliver to Brulatour & Co., P. E. C., forty-eight casks red wine; P. E. C., one hundred and eighty cases Vermouth; P. E. C., one hundred cases Vermouth; no mark, one hundred baskets oil, 12 bottles; no mark, seventy baskets oil, 24½ bottles, imported into this district on 26th April, 1864, by them in the brig Katica, master, from Marseilles.
(Signed) W. C. GRAY, *D'y Collector.*

J. C. W.
JONA. C. WHITE, *D'y Naval Officer.*

Indorsed: P. B. W. H., No. 4, at 64 Old Levee st. Custom-house, New Orleans, May 6th, 1864. D. S. B.
(Signed) JOHN F. COLLINS, *D'y C.*

21 *Document E.—Offered in evidence by plaintiffs, and filed Dec.* 6 1864.

Cask on wharf, one of each; form 106 of balance. (W. H. Bond No. 12, J. T. DC.)

CUSTOM-HOUSE, NEW ORLEANS,
Collector's Office, May 2d, 1861.

To the inspector of the port:

You are directed to send to the bonded warehouse, No. 64 Old Levee street, P. E. C., forty-eight casks claret; two hundred boxes Vermouth; two hundred and fifty boxes Vermouth; no mark, three

hundred baskets olive oil, imported on the 26th of April, 1864, by Brulatour & Co., in the Katica, master, from Bordeaux.

(Signed) JOHN F. COLLINS, *D'y Collector.*

J. C. W.

(Signed) P. O. LABATUT,
D'y Naval Officer.

D. F. BEAUREGARD, *Inspector.*

22 *Document F.—Offered by plaintiffs, and filed Dec. 6th, 1864.*

DC.—Casks on wharf, one of each of balance. (Bond No. 153. J. T.)

PORT OF ORLEANS.

To the inspector of the port:

We certify that Brulatour & Co. has paid, or secured to be paid, the duties on merchandise contained in the following packages, in conformity to the entry thereof of this date; which merchandise was imported in the Katica, , master, from Marseilles.

Permission is accordingly hereby given to land the same, viz:

P. E. C. One hundred and two casks claret.
One hundred boxes Vermouth.
½. Two jars sausages.
11, 21, 38, 39. Four bales walnuts.
Jourdan Brive. Two hundred and fifty boxes Vermouth.
One hundred and fifty boxes mushrooms.
Twenty barrels vinegar.
One hundred and fifty boxes pickles.
One hundred boxes olives.
Twenty-five boxes capers.
One hundred boxes assorted pickles.
Twenty-five boxes sardines in salt.
Twenty-five boxes sardines in oil.
Fifty boxes olives.
Fifty boxes pickles.

23 P. E. C. ½ Seventy-seven boxes orange flower.
P. E. B. Three hundred baskets olive oil.
C. C. Two hundred baskets olive oil.
E. P. C. Thirty-nine boxes olive oil.
P. E. B. Two hundred baskets olive oil.
C. C. One hundred baskets olive oil.
E. P. C. Forty boxes olive oil.
A. D. & C. Eighty-five q'r casks port.
P. E. C. Fifty q'r casks port.
A. D. & C. Sixty-five q'r casks Madeira.
P. E. & C. Fifty q'r casks Madeira.
Custom house, May 2d, 1864.

(Signed) JOHN F. COLLINS, *D'y Collector.*

J. E. W.

(Signed) P. O. LABATUT,
D'y Naval Officer.

D. F. BEAUREGARD, *Inspector.*

24 *Document C.—Offered in evidence by defendants, and filed Dec. 6th, 1864.*

Manifest du navire autrichien Katica A, No. 71, Capt. Andrianich, allant a New Orleans.

1	Jules Gelin	L. Gorint Deloche	C. D. 50 7-520	14 caisses vin.
2	J. A. Gautier	Oscar Bercier & Co	B. R.	250 caisses Vermouth.
3	P. E. Caillot & Co	Brulatour & Co	A. D. & C	150 quarts vin.
4	do	do	P. E. C.	150 Bordelaises vin.
	do	do	do	300 caisses Vermouth.
	do	do	P. E. C. 1	2 jarres saucissons.
	do	do	P. E. C. 11, 21, 38, 39	4 balles noix.
5	do	Steiner & Marinoni	S. & M. 1-5	5 balles bouchons.
	do	do	6	1 baril anis.
	do	do	7	1 baril fenouil.
	do	do	8	1 baril corciendre.
6	do	Order	P. E. C. Jourdan Brive.	500 caisses Vermouth.
	do	do	do	150 caisses vin.
	do	do	do	20 barils vinaigre.
	do	do	do	525 caissons salaisons.
	do	do	do	65 caisses eau de fleurs doranger.
	do	do	do	12 estagnons do.
7	do	do	CC, 500; P. E. B., 300 1-m 200.	700 paniers huile.
	do	do	E. P. C.	89 caisses huile.
	do	do	CC., 100; P. E. B., 200 1-m 100.	400 paniers huile.
	do	do	E. P. C	40 caisses vin.
8	do	do	P. E. C	100 quarts vin.
9	John Stephen Martin	A. Derbis	(A. Derbes)	1 caisse tableaux.
			C. A. A	300 caisses Vermouth.
			C. A. A	10 Bordelaisses vin rouge.

I, C. Andrianich, master of the Austrian brig Katica, do solemnly and truly swear that the above list is a true and faithful description of the cargo of the ship under my command, now bound for the port of New Orleans.

25 (Signed) ANDRIANICH.

Sworn to and subscribed before me, vice-consul of the United States at Marseilles, this fourth day of February, 1864.

(Signed) P. MARAVAL, [SEAL.]
U. S. Vice-consul.

[U. S. rev. stamp of $1 affixed.]

Indorsed: I certify that the within manifest was this day produced to me as the original manifest of the cargo on board of the Austrian brig Katica, whereof Andrianich is master, from Marseilles.

Passe a Loutre, April 23, '64.

(Signed) JAMES WILDER,
Boarding Officer.

26 *Oath annexed to foregoing manifest.*

Master's oath on entering foreign vessel.

I, Andrinich, do solemnly, sincerely, and truly swear that the report and manifest subscribed with my name, and now delivered by me to the collector of the district of New Orleans, contains, to the best of my knowledge and belief, a just and true account of all the goods, wares, and merchandise, including packages of every kind

and nature whatsoever, which were on board the brig Katica at the time of her sailing from the port of Marseilles, or which have been laden or taken on board at any time since, and that the packages of the said goods are as particularly described as in the bills of lading, signed for the same by me, or with my knowledge; that I am at present, and have been during the voyage, master of the said vessel; that no package whatsoever, or any goods, wares, or merchandise, have been unladen, landed, taken out, or in any manner whatever removed from on board the said brig since her departure from the said port of Marseilles, except such as are now particularly specified and declared in the abstract account herewith, and that the clearance and other papers now delivered by me to the collector are all that I now have or have had that any way relate to the cargo of the said vessel.

And I do further swear that the several articles specified in the said manifest as the sea stores for the cabin and vessel are truly such, and were bona fide put on board the said brig for the use of the officers, crew, and passengers thereof, and have none of them been brought and are not intended by way of merchandise or for sale, or for any other purpose than above mentioned, and are intended to remain on board for the consumption of the said officers and crew.

I further swear that if I shall hereafter discover or know of any other or greater quantity of goods, wares, and merchandise, of any nature or kind whatsoever, than are contained in the report and manifest, subscribed and now delivered by me, I will immediately and without delay make due report to the collector of the port and district of New Orleans.

And I do likewise swear that all matters whatsoever in the said report and manifest expressed, are, to the best of my knowledge and belief, just and true.

I further swear that no officer of the customs has applied for an inspection of the manifest of the cargo on board the said vessel, and that no certificate of indorsement has been delivered to me on any manifest of such cargo.

I do further, as required by law, solemnly swear that I have, to the best of my knowledge or belief, delivered or caused to be delivered into the post office of this port every letter and every bag, parcel, or package of letters that were on board the said vessel during her last voyage, and that I have so delivered or caused to be delivered all such letters, bags, parcels, and packages as were in my possession or under my power or control.

I further swear that said vessel sailed from said port, Marseilles, on the 8th February, 1864. So help me God.

(Signed) ANDRIANICH.

Sworn before me, this 26 day of April, 1864.

(Signed) JOHN F. COLLINS, *D'y Collector.*

[5-cent rev. stamp.]

Document G, offered in evidence by defendants, and filed Dec. 6, 1864.

Form No. 177.—Storekeeper's return of goods permitted from the bonded warehouse, No. 102, on May 13, 1864.

Warehoused or unclaimed.	Marks and numbers.	Description of goods.	By what vessel imported.	From whence received.	Importer's name.	When received in store.	Date of indorsement at custom-house.	To whom delivered.
Appraisers.	P. E. C.	One box ass't'd pickles	Katica	Marseilles	Broulatour & Co	May 5	May 13	Broulatour & Co., or importer.
Do.	Jourdon Brives	One bale walnuts	do	do	do	do	do	Do.
Do.	do	One jar sausage	do	do	do	do	do	Do.
Do.	do	One box vermouth	do	do	do	do	do	Do.
Do.	do	One box olives	do	do	do	do	do	Do,
Do.	do	One " capers	do	do	do	do	do	Do.
Do.	do	Two " pickles	do	do	do	do	do	Do.
Do.	do	One " olives, (verdellas)	do	do	do	do	do	Do.
Do.	do	One " sardines in oil	do	do	do	do	do	Do.
Do.	do	One " muscat	do	do	do	do	do	Do.
Do.	P. E. C. 3	One " orange flower water	do	do	do	do	do	Do.
Do.	C. P. C. 2	Two " olives	do	do	do	do	do	Do.
Do.	P. E. B.	Two baskets oil	do	do	do	do	do	Do.
Do.	C. C.	Two " "	do	do	do	do	do	Do.

These goods were delivered to the importer, Broulatour & Co., on a permit from the deputy collector, dated May 13, '64, having been recv'd.

(Signed) H. M. SUMMERS, *W. House Supt'd.*
(Signed) H. M. SUMMERS, *W. H. S. and Storekeeper.*
(Signed) H. M. SUMMERS.

Copy from the original on file in the possession of the warehouse bookkeeper.

28 *Hearing of cause and submission.*

Circuit court of the United States, sixth circuit and eastern district of Louisiana. November term, 1864.

NEW ORLEANS, *Tuesday, December 6th*, 1864.

Court met pursuant to adjournment. Present: Hon. E. H. Durell, district judge; absent: Hon. John Catron, presiding judge.

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

This cause came up for trial. Rufus Waples, esq., U. S. att'y for plaintiffs; Whitaker, Fellows & Mills, for defendants.

When after hearing pleadings, evidence, and argument, the court took time to advise.

29 *Judgment.*

U. S. circuit court, sixth circuit and eastern district of Louisiana. November term, 1864.

NEW ORLEANS, *Saturday, December 17th*, 1864.

Court met pursuant to adjournment. Present: Hon. E. H. Durell, district judge; absent: Hon. John Catron, presiding judge.

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

For the reasons orally assigned by the court, it is ordered, adjudged, and decreed that there be judgment in favor of defendants, and that plaintiffs' petition be dismissed with costs.

Judgment rendered December 17th, 1864.

Judgment signed January 4th, 1865.

E. H. DURELL, *Judge*.

30 *Rule and grounds for new trial.—From minutes of Dec. 22d, 1864.*

U. S. circuit court.

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR and HYPOLITE NORES and Francis Laborde. } No. 3,480.

On motion of Rufus Waples, U. S. att'y, in behalf of the United States, plaintiffs herein, and on suggesting that they are informed that there is error in the judgment rendered herein; that the said judgment is contrary to law and evidence: It is ordered that the defendants be cited to show cause, on Tuesday, the 3d day of January, 1865, at 10 o'clock a. m., why a new trial should not be granted on the grounds above suggested.

Order refusing new trial.—From minutes of January 3d, 1865.

U. S. circuit court.

THE UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

31 The application herein made on part of plaintiffs for a new trial came on to be heard.

District att'y for plaintiffs; Whitaker, Fellows & Mills for defendants.

When, after argument of counsel, the same was submitted, and on consideration thereof, it was ordered that said application be dismissed and a new trial refused.

Petition for appeal.—Filed 20th February, 1866.

U. S. circuit court, east. dist. of La.

UNITED STATES
vs.
PETER ERNEST BRULATOUR AND HYPOLITE NORES and Francis Laborde. } No. 3,480.

To the honorable the judges of the circuit court of the United States for the sixth circuit and eastern district of Louisiana:

The petition of Jno. K. Goodloe, United States district attorney for the eastern district of Louisiana, in the name and behalf
32 of the United States of America, plaintiffs herein, respectfully represents:

That judgment was entered on the 17th day of December, 1864, in the above-entitled cause, in the U. S. circuit court for the eastern district of Louisiana, in favor of defendants and against the United States.

That said decree is adverse to the United States and to their manifest injury and prejudice; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said decree, and is advised that the same is erroneous and ought to be reversed.

Wherefore your petitioner, in behalf as aforesaid, doth hereby appeal from said final decree to the next term of the Supreme Court of the United States, returnable on the 1st Monday of December, 1866, and prays that the said decree may be reversed, and such other decree thereupon made as to the said Supreme Court may seem just, and that a transcript of the record and proceedings in this
33 cause, duly authenticated, may be sent up to the said Supreme Court without delay.

(Signed) JNO. K. GOODLOE,
U. S. Att'y.

Order.

An appeal is allowed in this case as prayed for, returnable to the Supreme Court of the United States the first Monday of December, 1866, the libellants being by law dispensed from giving bond and security in judicial proceedings.

Feb'y 20th, 1866.

(Signed) E. H. DURELL, *Judge.*

34 United States of America, circuit court of the United States, sixth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 33 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of the United States *vs.* Peter Ernest Brulatour and Hypolite Nores and Francis Laborde, No. 3,480 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 6th day of July, A. D. 1866.

[SEAL.] CH'S CLAIBORNE, *Clerk.*

[5-ct. int. rev. stamp.]

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 6th day of July, A. D. 1866.

E. H. DURELL, *Judge.*

[5-ct. int. rev. stamp.]

35 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to Peter Ernest Brulatour, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a petition for appeal and order granting it, filed in the clerk's office of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, wherein the United States of America are plaintiffs and appellants and you and others are defendants, to show cause, if any there be, why the judgment rendered against the said United States,

as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this twenty-third day of February, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received February 23d, 1866, and on the 24th day of same month and year served a copy of the within citation on Peter Ernest Laborde, the defendant named herein, by leaving the same at No. 12 Conti street, in this city, in the hands of Hypolite Nores, a partner in commercial business and legal agent of said Brulatour, who is absent from the city and State.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, February 26th, 1866.

36 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to Hypolite Nores, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a petition for appeal and order granting it, filed in the clerk's office of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, wherein the United States of America are plaintiffs and appellants and you and others are defendants, to show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this twenty-third day of February, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received February 23d, 1866, and on the 24th day of same month and year served a copy of the within citation on Hypolite Nores, the defendant named herein, personally, at his office, No. 12 Conti street, in this city.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, February 26th, 1866.

37 UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to Francis Laborde, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Wash-

ington on the first Monday of December next, pursuant to a petition for appeal and order granting it, filed in the clerk's office of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, wherein the United States of America are plaintiffs and appellants and you and others are defendants, to show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this twenty-third day of February, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

38 *Marshal's return.*

Received February 23d, 1866, and on the 24th day of same month and year served a copy of the within citation on Francis Laborde, the defendant named herein, personally, at his office, No. 42 Old Levee street, in this city.

M. EGAN,
D'y U. S. Marshal.

New Orleans, February 26th, 1866.

Filed 18 October, 1866.

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